



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/250,940	02/18/1999	JAY H. CONNELLY	2207/6019	2643

7590 08/11/2005

MICHELLE M. CARNIAUX
KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

TRAN, TRANG U

ART UNIT	PAPER NUMBER
----------	--------------

2614

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/250,940	Applicant(s) CONNELLY ET AL.	
	Examiner Trang U. Tran	Art Unit 2614	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 2-11, 13-16, 18-27, 29-36, 38 and 41-48.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed July 05, 2005 have been fully considered but they are not persuasive.

In re pages 2-4, applicants argue that, with respect to claim 13, neither Michaud nor Jackson, alone or in combination, discloses or suggests the control of a target device while an output device provides an output, where such control and output is performed as a function of a command signal and a data signal, respectively, that were used for generating a transmission signal.

In response, the examiner respectfully disagrees. As discussed in the last Office Action, for the claimed limitation "at least one target device controlled as a function of the command signal while the output device provides an output as a function of the data signal", the Office Action relies on "a digital receiving system receives and processes a digital data stream containing television programming information, EPG information, and a list of video cassette recorders (VCRs) and corresponding infrared (IR) codes used to control the listed models of VCRs contained in the list, ...the digital receiving system uses the codes saved in nonvolatile memory to generate and transmit an IR signal to the VCR to start recording when the EPG determines the selected event begins, the EPG and selected program are monitored during recording, at the end of the program, and transmitted IR signal terminates the recording operation (see abstract, Figs. 1 and 2, col. 3, line 32 to col. 6, line 27)" for the claimed alleged limitation.

Jackson discloses in col. 5, lines 8-15 that "The EPG selections 7 and VCR IR code selection 11 are used to control the operation of the VCR 38, and are stored in nonvolatile memory 15. As new programming information is received via data 29, CPU 16 checks updated EPG 22 information against the EPG selections 7 stored in nonvolatile memory 15. In the preferred embodiment, nonvolatile memory 15 may be flash memory, conventional RAM utilizing a battery backup, or ferroelectric memory". It is noted that claim 13 does not specifically claim that the at least one target device is controlled as a function of **only** the command signal. Since claim 13 does not require that **only** the command signal controls the at least one target device, the claimed command signal is anticipated by the EPG of Jackson.

Jackson discloses in col. 4, lines 18-25 that "Video decompressor 28 and audio decompressor 30 accept video stream 26 and audio stream 27, respectively, and decompress them. The video stream 26 is fed to video digital to analog converter 32 and the audio stream 27 is then fed to audio digital to analog converter 34, the converters 32 and 34 convert the digital streams into analog baseband signals which are then output to TV/monitor 36 and VCR device 38". From the above passages it is clear that the EPG selection 7 of Jackson would control the VCR while the video and audio signals are inputted to the TV/monitor 36. Thus, Jackson does indeed disclose the claimed feature "the at least one target device is controlled as a function of the command signal while an output device at the receiving end provides an output as a function of the data signal" as required by claim 13.

Art Unit: 2614

In re pages 4-7, applicants argue that the remaining claims are patentable over the references for the same reasons set forth above in support of the patentability of claim 13.

In response, as discussed above, the combination of Michaud and Jackson discloses all the claimed limitations of claim 13.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trang U. Tran whose telephone number is (571) 272-7358. The examiner can normally be reached on 8:00 AM - 5:30 PM, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT TT
July 25, 2005



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600